

Landlord Must Return Security Deposit Balance

By CD Publications

Connecticut. A landlord loses its claim for unpaid rent and attorneys' fees against two former tenants and the court awards the tenants a \$1,000 judgment because the landlord failed to return the balance of the their security deposit.

The landlord leased an apartment to two college students for a one year term beginning July 2004. The monthly rent was set at \$1,045 and the tenants paid a \$2,090 security deposit when they took possession.

The landlord claims the tenants did not move out at the end of their lease term and says the keys were not returned until August 20, 2005.

The landlord also claims the tenants damaged the apartment and breached the lease by failing to return the apartment in the same condition it was in when it was rented to them – minus normal wear and tear.

The landlord entered the apartment on August 3, 2005 and repaired the damages and removed the trash left behind by the tenants. On September 9, 2005, the landlord sent a letter to the tenants about their security deposit.

The landlord sent the letter to their old apartment address because the tenants did not provide their forwarding address when they vacated. He eventually sent a second letter to one of the tenants at his home address in another state and the tenant received the letter and objected to the landlord's retention of their security deposit.

The landlord sued the tenants claiming they breached the lease agreement and that they owed for unpaid rent and damages to the apartment. The landlord also sought attorneys' fees as followed under the lease.

The tenants filed a counterclaim against their landlord seeking the return of their security deposit, double damages and attorneys' fees under the state's security deposit statute.

The state's security deposit statute requires a landlord to send either the full amount of a tenant's security deposit or the balance remaining after deductions have been taken along with a written itemization of the damages to a tenant. The landlord must do this within 30 days after termination of the tenancy. (21 days in California).

The landlord is required to send the security deposit or itemization to the forwarding address provided by the tenant. If the landlord fails to provide the notice within the 30-day period, the landlord may be held liable for double the amount of the deposit wrongfully withheld plus interest and attorneys fees.

But, in order to receive the statutory "double damages," the tenant must first provide the landlord with written notice of his or her forwarding address.

The tenants admit they failed to provide their forwarding address to the landlord when they vacated and the court concludes they are not entitled to double the amount of their security deposit wrongfully withheld as statutory damages.

But the trial court also rules the landlord failed to prove the tenants owed additional rent under the terms of the lease and the court refuses to award the landlord damages for unpaid rent.

The trial court does find that the tenants damaged the apartment above and beyond reasonable wear and tear during their lease term and awards the landlord \$1,175 for repair costs.

The landlord failed to produce any evidence to support its claim for attorneys' fees so the court does not award attorneys' fees to the landlord.

The court rules the landlord was required to return the balance of the security deposit to the tenants after deducting for the damages even though he did not receive their forwarding address until well after the date they vacated.

The court ordered a judgment in favor of the tenants against the landlord for the remainder of their security deposit - \$1,000. The landlord was not entitled to the windfall, says the court.

Lesson: The landlord failed to prove the tenants owed any rent because it failed to prove the exact date the tenants vacated. The tenants would have been entitled to double damages if they had only provided their forwarding address to their landlord and their judgment would have been approximately \$3,000 instead of \$1,000. Landlords must comply with all statutes, especially the security deposit statutes because most state statutes provide for double damages and attorneys' fees from wrongfully withholding a tenant's deposit.

Intertown Realty Company v. Scott Goldfarb et al. 2007. Conn. Super.

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